

STATE OF MICHIGAN  
COURT OF APPEALS

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*In re* MCLALIN, Minors.

UNPUBLISHED  
October 28, 2014

No. 319674  
Berrien Circuit Court  
Family Division  
LC No. 2011-000053-NA

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*In re* J. MCLALIN, Minor.

No. 319681  
Berrien Circuit Court  
Family Division  
LC No. 2012-000069-NA

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Before: METER, P.J., and WHITBECK and RIORDAN, JJ.

PER CURIAM.

Respondents mother and father appeal as of right the trial court's order terminating their parental rights to five minor children under MCL 712A.19b(3)(c)(i) (failure to rectify conditions leading to adjudication and no reasonable likelihood of their being rectified within a reasonable time) and (g) (failure to provide proper care or custody and no reasonable expectation of proper care and custody within a reasonable time). We affirm.

Respondents first argue that the trial court erred in finding statutory grounds for terminating their parental rights. "In order to terminate parental rights, the trial court must find by clear and convincing evidence that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been met." *In re VanDalen*, 293 Mich App 120, 139; 809 NW2d 412 (2011). We review the trial court's determination for clear error. *Id.* "A finding is 'clearly erroneous' if, although there is evidence to support it, we are left with a definite and firm conviction that a mistake has been made." *In re HRC*, 286 Mich App 444, 459; 781 NW2d 105 (2009).

The trial court did not clearly err in finding that a ground for termination existed. MCL 712A.19b(3)(c)(i) provides that a trial court may terminate parental rights if it finds, by clear and convincing evidence, that “[t]he parent was a respondent in a proceeding brought under this chapter, 182 or more days have elapsed since the issuance of an initial dispositional order, and . . . [t]he conditions that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child[ren]’s age[s].” The trial court entered an initial dispositional order in Docket No. 319674 on November 2, 2011. The trial court entered an initial dispositional order in Docket No. 319681 on October 17, 2012. The termination hearing was held on October 22, 2013, and November 12, 2013. Thus, more than 182 days had elapsed since the issuance of an initial dispositional order in each case.

The conditions that led to adjudication in Docket No. 319674 were (1) the deplorable conditions of the family home and (2) parental neglect, including improper medical care. The conditions that led to adjudication in Docket No. 319681 were (1) the situation in the other case and (2) mother’s mental instability. The record adequately supports that respondents failed to rectify the pertinent issues throughout the proceedings.

With respect to the conditions of the home, at the time the petition was filed in Docket No. 319674, the home was wholly unsuitable for the children. It was cluttered with trash and other debris, smelled terrible, and was infested with flies. Respondents did not allow anyone from the Department of Human Services (DHS) to view the inside of their home until July 12, 2012, almost a full year after the petition was filed. When DHS finally viewed the home, the caseworker noted some improvements, but identified outstanding issues, such as clutter in the kitchen, exposed electrical wires, and ceiling tiles hanging from the ceiling. The condition of the home improved enough that by the time the child involved in Docket No. 319681 was born in August 2012, he was allowed to remain in the home. Subsequently, the parents were allowed to have parenting-time visits with the other children in the home. However, over the course of the following several months, the condition of the home again deteriorated. It reverted back to a state of uncleanness and smelled badly, and defects remained. Moreover, an environmental analysis conducted in August 2013 revealed extremely elevated levels of mold, which was especially hazardous to one of the minor children who suffered from cystic fibrosis. Respondents did not follow through with rectifying housing issues that remained. We note that the condition of the home, among other things, eventually led to the removal of the child involved in Docket No. 319681.

With respect to respondents’ parenting skills, at the time the petition was filed in Docket No. 319674, there were allegations that the children had inadequate apparel and that one of the children’s specialized medical needs were not being met. A psychological assessment of mother indicated that she had adequate parenting skills, but would have difficulty being appropriately authoritative. An assessment of father indicated that his parenting skills were “less than adequate.” Respondents completed parenting classes, attended some counseling, and participated consistently with parenting-time visits such that by the time the child involved in Docket No. 319681 was born in August 2012, he was allowed to remain in the home. Further, respondents were allowed to have unsupervised parenting-time visits in the home with the other children. However, as with the conditions of the home, respondents’ progress halted. Respondents had fights in front of the children. Notably, mother left the home in February 2013.

for an extended period, leaving father to care for the youngest child on his own. This caused stress and concern for the children. The record suggests that the absence was related to mother's concern for her safety when around father. Notes from caseworkers and counselors also suggested that respondents were having inappropriate communications with the children that undermined the foster family's authority. In April 2013, parenting-time visits were changed from unsupervised to supervised. After visits became supervised, a caseworker noted, respondents were so focused on their own relationship that they often failed to address the needs of the children. By the time of termination, parenting visits had been suspended altogether and the supervising caseworker opined that respondents had failed to show a sufficient benefit from services to warrant finding that they could adequately parent.

Finally, with respect to mother's emotional instability, the record supports that mother failed to adequately address and rectify this issue. Mother's initial psychological report indicated that she was a "slightly depressed, emotionally immature and constricted individual who is uncomfortable dealing with emotional issues." Likewise, initial reports from mother's domestic violence counseling indicated that mother struggled to manage elements of a chaotic life. Mother participated in some counseling services, and, as with other areas of the case, the trial court initially noted some progress. However, mother's emotional stability became increasingly concerning as time went on and it was one basis for changing parenting time from unsupervised to supervised and for petitioning the trial court to remove the child involved in Docket No. 319681 from the home. Mother became "more delusional" as the case progressed and displayed extremely aggressive behavior toward a caseworker in front of the children. Mother obtained a psychiatric assessment in September 2013, and the examining psychiatrist could not rule out the possibility of "undifferentiated schizophrenia." He recommended further evaluation and treatment, but expressed concern about whether mother would comply due to her limited insight about why her children were in care. The supervising caseworker noted at the termination hearing that mother's failure to fully appreciate why her children were in care was a consistent theme throughout these cases. She further opined at the termination hearing that mother was in no better place with respect to her emotional stability than she was when the case first started.<sup>1</sup> The trial court did not clearly err in finding that this issue had not been rectified.

The totality of evidence amply supported that respondents did not accomplish any meaningful change in the conditions that led to adjudication. Moreover, given respondents' failure to fully comply with or benefit from services during the more-than-two years these cases were pending, the trial court did not clearly err in finding that there was no reasonable likelihood that respondents could rectify these issues within a reasonable time considering the ages of the children. The trial court did not clearly err in terminating respondents' parental rights under MCL 712A.19b(3)(c)(i).

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<sup>1</sup> Mother argues on appeal that DHS offered certain therapy services too late in the proceedings, but the record reveals that they had consistently been available but mother had, at least initially, been resistant to using them.

Because we have concluded that at least one statutory ground for termination existed, we need not consider the additional ground on which termination was based. *In re HRC*, 286 Mich App at 461. Nevertheless, we have reviewed and found no clear error in the trial court's findings that the evidence supported termination under MCL 712A.19b(3)(g).

Respondents also challenge the trial court's determination that termination was in the best interests of the children. "Once a statutory ground for termination has been proven, the trial court must find that termination is in the child's best interests before it can terminate parental rights." *In re Olive/Metts*, 297 Mich App 35, 40; 823 NW2d 144 (2012), citing MCL 712A.19b(5). "[W]hether termination of parental rights is in the best interests of the child must be proven by a preponderance of the evidence." *In re Moss*, 301 Mich App 76, 90; 836 NW2d 182 (2013). We review this determination for clear error. *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000).

At the time of termination, the children involved in Docket No. 319674 had spent over two years in foster care because of respondents' continued inability or unwillingness to address and rectify the barriers to reunification. Likewise, the child involved in Docket No. 319681 had spent several months of his young life in foster care and his entire life under DHS supervision. Although respondents participated in services and initially showed some progress, it was evident by the time of termination that their ability or willingness to benefit from services had come to an end. It was unlikely that the children could be returned to respondents' home within the foreseeable future, if at all, and the children needed permanence, stability, and finality. This need for permanence, stability, and finality outweighed any bond respondents shared with the children. Moreover, the children's needs were being met by their foster family and, by the time of termination, they were doing well without contact from respondents. Accordingly, the trial court did not clearly err in finding, by a preponderance of the evidence, that termination of respondents' parental rights was in the best interests of the children.

Affirmed.

/s/ Patrick M. Meter  
/s/ William C. Whitbeck  
/s/ Michael J. Riordan